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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,431	01/25/2002	Peter Paasch Mortensen	10127.200-US	9691

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EXAMINER

DEJONG, ERIC S

ART UNIT	PAPER NUMBER
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1631

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,431

Applicant(s)

MORTENSEN, PETER PAASCH

Examiner

Eric S. DeJong

Art Unit

1631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/02/2005 ; 12/01/2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 28 and 44 is/are pending in the application.
- 4a) Of the above claim(s) 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 44 is/are rejected.
- 7) ☒ Claim(s) 1-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED OFFICE ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/01/2005 has been entered.

Claim Objections

Claims 1-20 are objected to because of the following informalities:

Line 6 of claim 1 recites "light from granular composition" and should be amended to read as --light from a granular composition--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The rejection of claims 1-20 and 44 under 35 USC § 112, second paragraph, is withdrawn in view of amendments made to the instant claims and arguments presented by applicants.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 and 44 are rejected under 35 U.S.C. 102(e)(2) as being anticipated by Chandler et al. (US Patent No. 6,268,222).

The instant claims are drawn to a method of fluorescence analysis comprising illuminating a granular composition comprising a purified biologically active compound containing a fluorescent marker, detecting light emitted from the fluorescent marker, and predicting the amount of fluorescent marker in the granular composition. The prediction of the amount of fluorescent marker in the granular composition is accomplished by comparing the light emitted therefrom to data n light emitted from a known granular composition.

Chandler et al. sets forth the development of novel fluorescent articles comprising a core particle region having on its surface a plurality of smaller polymeric particles stained with different fluorescent dyes (see Chandler et al., Abstract and throughout). The disclosed fluorescent particles range from 0.1 to 1,000 μ M in diameter (see Chandler et al., col. 3, lines 9-20). Chandler et al. further discloses that the composition of the particles may comprise cross-linking agents allowing for the coupling

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of reactive surfactant agents that allow for interaction with and, subsequently, the detection of antigens, proteins, enzymes, and other biological molecules (see Chandler et al., col. 3, lines 56-62 and col. 4, lines 45-50), which reads on the claimed limitation of the granular composition comprising a biologically active compound. Chandler et al. further set forth that the disclosed particles may be covalently coupled to biological materials including, *inter alia*, enzymes (see Chandler et al., col. 12, lines 58-64).. The fluorescent particles are further disclosed as being capable of emitting a single fluorescence emission or multiple fluorescence emissions with emission spectra ranging from 450 nm to 1000nm, wherein the different emission maxima of multiple fluorescent dyes are preferably separated by 20 to 25 nm and are usable with commercially available filters for detecting multiple fluorescence emissions (see Chandler et al., col. 4, lines 15-30). The detection means disclosed for observing and measuring fluorescence emissions includes, *inter alia*, digital cameras (CCD) as well as other means for converting observed light into digital signals and two-dimensional images (see Chandler et al., col. 4, line 59 through col. 5, line 4).

Chandler et al. further discloses methods for detecting multiple subpopulations of analytes of interest employing a complementary binding moiety to each of said analytes, wherein each analyte and its complementary binding moiety comprise first and second members of a specific binding pair respectively is provided (see Chandler et al., col. 15, line 38 through col. 16, line 44). The method includes the steps of forming a mixture of known proportions of multiple subpopulations of said complementary binding moieties, wherein each subpopulation comprises a different complementary binding moieties,

contacting the sample with the mixture so that specific binding pairs are formed on solid supports, and relating the presence of analytes of interest in the sample.

Claim Rejections - 35 USC § 103

The rejection of claim 44 under 35 USC §103(a) as being unpatentable over McNamara et al. is withdrawn in view of amendments made to the instant claims and arguments presented by applicants.

Response to Arguments

Applicant's arguments with respect to claim 44 has been considered but are moot in view of the new ground of rejection discussed above.

Conclusion

Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instrument Examiner, Tina Plunkett, whose telephone number is (571) 272-0549.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric S. DeJong whose telephone number is (571) 272-6099. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel, Ph.D. can be reached on (571) 272-0718. The fax phone

number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It

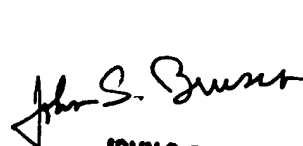
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also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center at (800) 786-9199.

EDJ

A handwritten signature in black ink, consisting of the letters 'E', 'D', and 'J' in a stylized, cursive-like font.

 20 February 2006
JOHN S. BRUSCA, PH.D.
PRIMARY EXAMINER